

DECISION



12984 *Waters from*  
THE COMPTROLLER GENERAL *Page 1*  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-195206.8

DATE: February 29, 1980

MATTER OF: A-P Business Machines Corporation, - *DL603285*  
Dale Business Machines - request for  
reconsideration ] *DL603286*

DIGEST:

Decision dismissing protest of Small Business Administration (SBA) refusal to issue certificates of competency (COC's) because SBA has authority to issue or deny COC's and GAO will not review SBA determination absent prima facie showing of fraud or willful disregard of facts is affirmed where protester has not introduced evidence making such showing.

A-P Business Machines Corporation (A-P) and Dale Business Machines (Dale) have requested reconsideration of our decision of November 6, 1979, B-195206.8, 79-2 CPD 330, in which we dismissed their protest of the refusal of the Small Business Administration (SBA) *-2* to issue them certificates of competency (COC's) in connection with invitation for bids (IFB) GSD-7DPR-00003 issued by the General Services Administration *-17* (GSA).

In that decision, we dismissed the protest because, under 15 U.S.C. § 637(b)(7) (1976 & Supp. I 1977), the SBA has the authority to issue or deny a COC. We stated that our Office would not review an SBA determination unless a protester has made a prima facie showing of fraud or willful disregard of facts, which the protesters had not done.

In their request for reconsideration, the protesters argue that the denial of the COC's was based on past performance problems which were caused mainly by an insufficient number of personnel. According to the protesters, four changes were made by late August 1979 which corrected the performance problems. These changes are (1) five additional

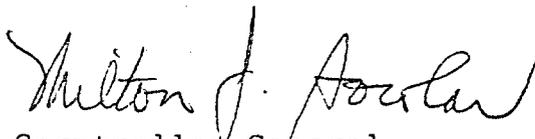
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employees were hired, (2) new administrative work control methods were instituted, (3) the inventory of "loaner" machines was increased and (4) the inventory of spare parts was increased. The protesters allege that the SBA failed to consider these changes in its September 27, 1979, denial of the COC's. The protesters also argue that favorable comments from two user agencies were not considered.

The Industrial Specialist's Report (ISR) on which the COC denials were based states "\* \* \* these firms have or have available adequate facilities, suppliers and numbers of personnel." The denials were based on a lack of "\* \* \* adequate management control, quality control, qualified technicians and the ability to properly communicate with Government customers." The Supplement to the ISR included the favorable comments from the two user agencies.

In our opinion, the protesters have still failed to make a prima facie showing that the SBA willfully disregarded pertinent facts in denying the COC's. The favorable comments were considered as evidenced by the Supplement to the ISR; they were just not considered sufficient to overcome the negative factors. It is not clear from the ISR whether the changes allegedly made were considered explicitly. However, the factors that would be improved by changes 1, 3 and 4 were not cited as problems or reasons for denial of the COC. Thus, whether the SBA considered those changes is irrelevant. Finally, while the institution of new work control methods might improve the problems of lack of "adequate management control, quality control \* \* \* and the ability to properly communicate with Government customers," there is no evidence in the record that such an improvement occurred.

Our prior decision is affirmed.



FOR THE Comptroller General  
of the United States